



House of Representatives

File No. 814

General Assembly

January Session, 2005

(Reprint of File No. 600)

Substitute House Bill No. 5057
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 28, 2005

AN ACT CONCERNING THE DEPARTMENT OF CHILDREN AND FAMILIES AND CHILD ABUSE OR NEGLECT PROCEEDINGS.

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 17a-101k of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) The Commissioner of Children and Families shall maintain a
4 registry of the commissioner's findings of abuse or neglect of children
5 [reports received] pursuant to [sections 17a-101a to 17a-101d, inclusive,
6 and section 17a-103, and shall adopt regulations to implement the
7 provisions of this section, including] section 17a-101g, as amended by
8 this act, that conforms to the requirements of this section. The
9 regulations adopted pursuant to subsection (i) of this section shall
10 provide for the use of the registry on a twenty-four-hour daily basis to
11 prevent or discover abuse of children and the establishment of a
12 hearing process for any appeal by a person of the commissioner's
13 determination that such person is responsible for the abuse or neglect
14 of a child pursuant to subsection (b) of section 17a-101g, as amended

15 by this act. The information contained in the [reports] registry and any
16 other information relative to child abuse, wherever located, shall be
17 confidential, subject to such statutes and regulations governing their
18 use and access as shall conform to the requirements of federal law or
19 regulations. Any violation of this section or the regulations adopted by
20 the commissioner under this section shall be punishable by a fine of
21 not more than one thousand dollars or imprisonment for not more
22 than one year.

23 [(b) Notwithstanding the provisions of subsection (a) of this section,
24 the Commissioner of Children and Families shall disclose to the
25 Commissioner of Social Services, or his designee, registry information
26 necessary for the evaluation of the temporary family assistance
27 program operated by the Department of Social Services.]

28 (b) Upon the issuance of a recommended finding that an individual
29 is responsible for abuse or neglect of a child pursuant to subsection (b)
30 of section 17a-101g, as amended by this act, the commissioner shall
31 provide notice of the finding, by first class mail, not later than five
32 business days after the issuance of such finding, to the individual who
33 is alleged to be responsible for the abuse or neglect. The notice shall:

34 (1) Contain a short and plain description of the finding that the
35 individual is responsible for the abuse or neglect of a child;

36 (2) Inform the individual of the existence of the registry and of the
37 commissioner's intention to place the individual's name on the registry
38 unless such individual exercises his or her right to appeal the
39 recommended finding as provided in this section;

40 (3) Inform the individual of the potential adverse consequences of
41 being listed on the registry, including, but not limited to, the potential
42 effect on the individual obtaining or retaining employment, licensure
43 or engaging in activities involving direct contact with children and
44 inform the individual of the individual's right to administrative
45 procedures as provided in this section to appeal the finding; and

46 (4) Include a written form for the individual to sign and return,
47 indicating if the individual will invoke the appeal procedures
48 provided in this section.

49 (c) (1) Following a request for appeal, the commissioner or the
50 commissioner's designee shall conduct an internal review of the
51 recommended finding to be completed no later than thirty days after
52 the request for appeal is received by the department. The
53 commissioner or the commissioner's designee shall review all relevant
54 information relating to the recommended finding, to determine
55 whether the recommended finding is factually or legally deficient and
56 ought to be reversed. Prior to the review, the commissioner shall
57 provide the individual access to all relevant documents in the
58 possession of the commissioner regarding the finding of responsibility
59 for abuse or neglect of a child, as provided in subsection (m) of section
60 17a-28.

61 (2) The individual or the individual's representative may submit any
62 documentation that is relevant to a determination of the issue and
63 may, at the discretion of the commissioner or the commissioner's
64 designee, participate in a telephone conference or face-to-face meeting
65 to be conducted for the purpose of gathering additional information
66 that may be relevant to determining whether the recommended
67 finding is factually or legally deficient.

68 (3) If the commissioner or the commissioner's designee, as a result of
69 the prehearing review, determines that the recommended finding of
70 abuse or neglect is factually or legally deficient, the commissioner or
71 the commissioner's designee shall so indicate, in writing, and shall
72 reverse the recommended finding. The commissioner shall send notice
73 to the individual by certified mail of the commissioner's decision to
74 reverse or maintain the finding not later than five business days after
75 the decision is made. If the finding is upheld, the notice shall be made
76 in accordance with section 4-177 and shall notify the individual of the
77 right to request a hearing. The individual may request a hearing not
78 later than thirty days after receipt of the notice. The hearing shall be

79 scheduled not later than thirty days after receipt by the commissioner
80 of the request for a hearing, except for good cause shown by either
81 party.

82 (d) (1) The hearing procedure shall be conducted in accordance with
83 the procedures for contested cases pursuant to sections 4-177 to 4-181a,
84 inclusive.

85 (2) At the hearing, the individual may be represented by legal
86 counsel. The burden of proof shall be on the commissioner to prove
87 that the finding is supported by a fair preponderance of the evidence
88 submitted at the hearing.

89 (3) Not later than thirty days after the conclusion of the hearing, the
90 hearing officer shall issue a written decision to either reverse or uphold
91 the finding. The decision shall contain findings of fact and a conclusion
92 of law on each issue raised at the hearing.

93 (e) Any individual aggrieved by the decision of the hearing officer
94 may appeal the decision in accordance with section 4-183. Such
95 individual may also seek a stay of the adverse decision of the hearing
96 officer in accordance with subsection (f) of section 4-183.

97 (f) Following the issuance of a decision to uphold the finding and
98 absent any stay of that decision issued by the commissioner or the
99 court, the commissioner shall accurately reflect the information
100 concerning the finding in the child abuse and neglect registry
101 maintained pursuant to subsection (a) of this section and shall, in
102 accordance with section 17a-101g, as amended by this act, forward to
103 any agency or official the information required to be disclosed
104 pursuant to any provision of the general statutes.

105 (g) Any individual against whom a finding of abuse or neglect was
106 substantiated prior to May 1, 2000, and who has not previously
107 appealed such finding, may appeal such finding as provided in this
108 section.

109 (h) Records containing unsubstantiated findings shall remain
110 sealed, except that such records shall be made available to department
111 employees in the proper discharge of their duties and shall be
112 expunged by the commissioner five years from the completion date of
113 the investigation if no further report is made about the individual
114 subject to the investigation, except that if the department receives more
115 than one report on an individual and each report is unsubstantiated,
116 all reports and information pertaining to the individual shall be
117 expunged by the commissioner five years from the completion date of
118 the most recent investigation.

119 (i) Not later than July 1, 2006, the Commissioner of Children and
120 Families shall adopt regulations, in accordance with the provisions of
121 chapter 54, to implement the provisions of this section.

122 Sec. 2. Section 17a-101g of the general statutes is repealed and the
123 following is substituted in lieu thereof (*Effective December 1, 2005*):

124 (a) Upon receiving a report of child abuse or neglect, as provided in
125 sections 17a-101a to 17a-101c, inclusive, or section 17a-103, in which
126 the alleged perpetrator is (1) a person responsible for such child's
127 health, welfare or care, (2) a person given access to such child by such
128 responsible person, or (3) a person entrusted with the care of a child,
129 the Commissioner of Children and Families, or the commissioner's
130 designee, shall cause the report to be classified and evaluated
131 immediately. If the report contains sufficient information to warrant an
132 investigation, the commissioner shall make the commissioner's best
133 efforts to commence an investigation of a report concerning an
134 imminent risk of physical harm to a child or other emergency within
135 two hours of receipt of the report and shall commence an investigation
136 of all other reports within seventy-two hours of receipt of the report.
137 The department shall complete any such investigation within thirty
138 calendar days of receipt of the report. If the report is a report of child
139 abuse or neglect in which the alleged perpetrator is not a person
140 specified in subdivision (1), (2) or (3) of this subsection, the
141 Commissioner of Children and Families shall refer the report to the

142 appropriate local law enforcement authority for the town in which the
143 child resides or in which the alleged abuse or neglect occurred.

144 (b) The investigation shall include a home visit at which the child
145 and any siblings are observed, if appropriate, a determination of the
146 nature, extent and cause or causes of the reported abuse or neglect, a
147 determination of the person or persons suspected to be responsible for
148 such abuse or neglect, the name, age and condition of other children
149 residing in the same household and an evaluation of the parents and
150 the home. The report of such investigation shall be in writing. The
151 investigation shall also include, but not be limited to, a review of
152 criminal conviction information concerning the person or persons
153 alleged to be responsible for such abuse or neglect and previous
154 allegations of abuse or neglect relating to the child or other children
155 residing in the household or relating to family violence. After an
156 investigation into a report of abuse or neglect has been completed, the
157 commissioner shall determine, based upon a standard of reasonable
158 cause, whether a child has been abused or neglected, as defined in
159 section 46b-120. If the commissioner determines that abuse or neglect
160 has occurred, the commissioner shall also determine whether: (1)
161 There is an identifiable person responsible for such abuse or neglect;
162 and (2) such identifiable person poses a risk to the health, safety or
163 well-being of children and should be recommended by the
164 commissioner for placement on the child abuse and neglect registry
165 established pursuant to section 17a-101k, as amended by this act. If the
166 commissioner has made the determinations in subdivisions (1) and (2)
167 of this subsection, the commissioner shall issue notice of a
168 recommended finding to the person suspected to be responsible for
169 such abuse or neglect in accordance with section 17a-101k, as amended
170 by this act.

171 (c) Except as provided in subsection (d) of this section, no entry of
172 the recommended finding shall be made on the child abuse or neglect
173 registry and no information concerning the finding shall be disclosed
174 by the commissioner pursuant to a check of the child abuse or neglect
175 registry or request for information by a public or private entity for

176 employment, licensure, or reimbursement for child care purposes
177 pursuant to programs administered by the Department of Social
178 Services or pursuant to any other general statute that requires a check
179 of the child abuse or neglect registry until the exhaustion or waiver of
180 all administrative appeals available to the person suspected to be
181 responsible for the abuse or neglect, as provided in section 17a-101k, as
182 amended by this act.

183 (d) If the child abuse or neglect resulted in or involves (1) the death
184 of a child; (2) the risk of serious physical injury or emotional harm of a
185 child; (3) the serious physical harm of a child; (4) the arrest of a person
186 due to abuse or neglect of a child; (5) a petition filed by the
187 commissioner pursuant to section 17a-112 or 46b-129; or (6) sexual
188 abuse of a child, entry of the recommended finding may be made on
189 the child abuse or neglect registry and information concerning the
190 finding may be disclosed by the commissioner pursuant to a check of
191 the child abuse or neglect registry or request for information by a
192 public or private entity for employment, licensure, or reimbursement
193 for child care purposes pursuant to programs administered by the
194 Department of Social Services or pursuant to any other general statute
195 that requires a check of the child abuse or neglect registry, prior to the
196 exhaustion or waiver of all administrative appeals available to the
197 person suspected to be responsible for the abuse or neglect as provided
198 in section 17a-101k, as amended by this act.

199 [(c)] (e) If the Commissioner of Children and Families, or [his] the
200 commissioner's designee, has probable cause to believe that the child
201 or any other child in the household is in imminent risk of physical
202 harm from [his] the child's surroundings and that immediate removal
203 from such surroundings is necessary to ensure the child's safety, the
204 commissioner, or [his] the commissioner's designee, shall authorize
205 any employee of the department or any law enforcement officer to
206 remove the child and any other child similarly situated from such
207 surroundings without the consent of the child's parent or guardian.
208 The commissioner shall record in writing the reasons for such removal

209 and include such record with the report of the investigation conducted
210 under subsection (b) of this section.

211 [(d)] (f) The removal of a child pursuant to subsection [(c)] (e) of this
212 section shall not exceed ninety-six hours. During the period of such
213 removal, the commissioner, or [his] the commissioner's designee, shall
214 provide the child with all necessary care, including medical care,
215 which may include an examination by a physician or mental health
216 professional with or without the consent of the child's parents,
217 guardian or other person responsible for the child's care, provided
218 reasonable attempts have been made to obtain consent of the child's
219 parents or guardian or other person responsible for the care of such
220 child. During the course of a medical examination, a physician may
221 perform diagnostic tests and procedures necessary for the detection of
222 child abuse or neglect. If the child is not returned home within such
223 ninety-six-hour period, with or without protective services, the
224 department shall proceed in accordance with section 46b-129.

225 Sec. 3. Subsection (c) of section 17a-28 of the general statutes is
226 repealed and the following is substituted in lieu thereof (*Effective*
227 *October 1, 2005*):

228 (c) When information concerning an incident of abuse or neglect has
229 been made public or when the commissioner reasonably believes
230 publication of such information is likely, the commissioner or [his] the
231 commissioner's designee may disclose, with respect to an investigation
232 of such abuse or neglect: (1) Whether the department has received a
233 report in accordance with sections 17a-101a to 17a-101c, inclusive, or
234 section 17a-103, and (2) in general terms, any action taken by the
235 department, provided (A) the names or other individually identifiable
236 information of the minor victim or other family member [shall not be]
237 is not disclosed, [notwithstanding such individually identifiable
238 information is otherwise available] and (B) the name or other
239 individually identifiable information of the person suspected to be
240 responsible for the abuse or neglect is not disclosed unless the person
241 has been arrested for a crime due to such abuse or neglect.

242 Sec. 4. Subsection (f) of section 17a-28 of the general statutes is
243 repealed and the following is substituted in lieu thereof (*Effective*
244 *October 1, 2005*):

245 (f) The commissioner or the commissioner's designee shall, upon
246 request, promptly provide copies of records, without the consent of a
247 person, to (1) a law enforcement agency, (2) the Chief State's Attorney
248 or the Chief State's Attorney's designee or a state's attorney for the
249 judicial district in which the child resides or in which the alleged abuse
250 or neglect occurred or the state's attorney's designee, for purposes of
251 investigating or prosecuting an allegation of child abuse or neglect, (3)
252 the attorney appointed to represent a child in any court in litigation
253 affecting the best interests of the child, (4) a guardian ad litem
254 appointed to represent a child in any court in litigation affecting the
255 best interests of the child, (5) the Department of Public Health, which
256 licenses any person to care for children for the purposes of
257 determining suitability of such person for licensure, subject to the
258 provisions of sections 17a-101g and 17a-101k, as amended by this act,
259 (6) any state agency which licenses such person to educate or care for
260 children pursuant to section 10-145b or 17a-101j, subject to the
261 provisions of sections 17a-101g and 17a-101k, as amended by this act,
262 concerning nondisclosure of findings of responsibility for abuse and
263 neglect, (7) the Governor, when requested in writing, in the course of
264 the Governor's official functions or the Legislative Program Review
265 and Investigations Committee, the committee of the General Assembly
266 on judiciary and the committee of the General Assembly having
267 cognizance of matters involving children when requested in the course
268 of such committees' official functions in writing, and upon a majority
269 vote of said committee, provided no names or other identifying
270 information shall be disclosed unless it is essential to the legislative or
271 gubernatorial purpose, (8) a local or regional board of education,
272 provided the records are limited to educational records created or
273 obtained by the state or Connecticut-Unified School District #2,
274 established pursuant to section 17a-37, and (9) a party in a custody
275 proceeding under section 17a-112, or section 46b-129, in the Superior

276 Court where such records concern a child who is the subject of the
277 proceeding or the parent of such child. A disclosure under this section
278 shall be made of any part of a record, whether or not created by the
279 department, provided no confidential record of the Superior Court
280 shall be disclosed other than the petition and any affidavits filed
281 therewith in the superior court for juvenile matters, except upon an
282 order of a judge of the Superior Court for good cause shown. The
283 commissioner shall also disclose the name of any individual who
284 cooperates with an investigation of a report of child abuse or neglect to
285 such law enforcement agency or state's attorney for purposes of
286 investigating or prosecuting an allegation of child abuse or neglect.
287 The commissioner or the commissioner's designee shall, upon request,
288 subject to the provisions of sections 17a-101g and 17a-101k, as
289 amended by this act, promptly provide copies of records, without the
290 consent of the person, to (A) the Department of Public Health for the
291 purpose of determining the suitability of a person to care for children
292 in a facility licensed under sections 19a-77 to 19a-80, inclusive, as
293 amended by this act, 19a-82 to 19a-87, inclusive, and 19a-87b, as
294 amended by this act, and (B) the Department of Social Services for
295 determining the suitability of a person for any payment from the
296 department for providing child care.

297 Sec. 5. Section 17a-6a of the general statutes is repealed and the
298 following is substituted in lieu thereof (*Effective October 1, 2005*):

299 The Commissioner of Children and Families shall (1) require each
300 applicant for a position with the department to state in writing
301 whether such person has ever been convicted of a crime or whether
302 criminal charges are pending against such person at the time such
303 person submits an application, and (2) require each applicant to submit
304 to state and national criminal history records checks, in accordance
305 with section 29-17a. The commissioner shall also check the state child
306 abuse registry established pursuant to section 17a-101k, as amended
307 by this act, for the name of such applicant. [for perpetrator
308 information.]

309 Sec. 6. Subsection (b) of section 17a-114 of the general statutes is
310 repealed and the following is substituted in lieu thereof (*Effective*
311 *October 1, 2005*):

312 (b) (1) No child in the custody of the Commissioner of Children and
313 Families shall be placed with any person, unless such person is
314 licensed by the department. Any person licensed by the department
315 may be a prospective adoptive parent. The commissioner shall adopt
316 regulations, in accordance with the provisions of chapter 54, to
317 establish the licensing procedures and standards.

318 (2) The commissioner shall require each applicant for licensure
319 pursuant to this section and any person sixteen years of age or older
320 living in the household of such applicant to submit to state and
321 national criminal history records checks prior to issuing a license to
322 such applicant to accept placement of a child. Such criminal history
323 records checks shall be conducted in accordance with section 29-17a.
324 The commissioner shall also check the state child abuse registry
325 established pursuant to section 17a-101k, as amended by this act, for
326 the name of such applicant and for the name of any person sixteen
327 years of age or older living in the household of such applicant, [for
328 perpetrator information.]

329 Sec. 7. Subsection (a) of section 17b-749k of the general statutes is
330 repealed and the following is substituted in lieu thereof (*Effective*
331 *October 1, 2005*):

332 (a) The Commissioner of Social Services shall, within available
333 appropriations, require any person, other than a relative, providing
334 child care services to a child in the child's home who receives a child
335 care subsidy from the Department of Social Services to submit to state
336 and national criminal history records checks. The criminal history
337 records checks required pursuant to this subsection shall be conducted
338 in accordance with section 29-17a. The commissioner shall also request
339 a check of the state child abuse registry established pursuant to section
340 17a-101k, as amended by this act. [for perpetrator information.]

341 Sec. 8. Subsection (a) of section 19a-77a of the general statutes is
342 repealed and the following is substituted in lieu thereof (*Effective*
343 *October 1, 2005*):

344 (a) Any retail establishment in this state may establish a drop-in
345 supplementary child-care operation on the premises of such retail
346 establishment in accordance with the following requirements:

347 (1) The hours of operation may only be between six o'clock a.m. and
348 nine o'clock p.m.

349 (2) No child receiving care shall be less than three years or more
350 than ten years of age.

351 (3) A child may not receive more than two hours of care per day.

352 (4) The operation may immediately notify appropriate law
353 enforcement or state agencies if any child receiving care at such
354 operation is not picked up by a parent or guardian after three hours.

355 (5) A parent or guardian shall be on the premises at the retail
356 establishment at all times while the child is receiving care.

357 (6) The retail establishment shall provide a clean and safe area for
358 the drop-in supplementary child-care operation.

359 (7) At all times the operation shall provide (A) at least one child-care
360 staff person for every ten children, and (B) at least one child-care staff
361 person who is twenty years of age or older who has experience in child
362 care.

363 (8) The operation shall submit the names of all child-care staff to the
364 Commissioner of Public Health, who shall request a check of such
365 names from the state child abuse registry established pursuant to
366 section 17a-101k, as amended by this act. [for perpetrator information.]

367 Sec. 9. Subsection (c) of section 19a-80 of the general statutes is
368 repealed and the following is substituted in lieu thereof (*Effective*

369 October 1, 2005):

370 (c) The Commissioner of Public Health, within available
 371 appropriations, shall require each prospective employee of a child day
 372 care center or group day care home in a position requiring the
 373 provision of care to a child to submit to state and national criminal
 374 history records checks. The criminal history records checks required
 375 pursuant to this subsection shall be conducted in accordance with
 376 section 29-17a. The commissioner shall also request a check of the state
 377 child abuse registry established pursuant to section 17a-101k, as
 378 amended by this act. [for perpetrator information.] Pursuant to the
 379 interagency agreement provided for in section 10-16s, the Department
 380 of Social Services may agree to transfer funds appropriated for
 381 criminal history records checks to the Department of Public Health.
 382 The commissioner shall notify each licensee of the provisions of this
 383 subsection.

384 Sec. 10. Subsection (b) of section 19a-87b of the general statutes is
 385 repealed and the following is substituted in lieu thereof (*Effective*
 386 *October 1, 2005*):

387 (b) The Commissioner of Public Health, within available
 388 appropriations, shall require each initial applicant or prospective
 389 employee of a family day care home in a position requiring the
 390 provision of care to a child to submit to state and national criminal
 391 history records checks. The criminal history records checks required
 392 pursuant to this subsection shall be conducted in accordance with
 393 section 29-17a. The commissioner shall also request a check of the state
 394 child abuse registry established pursuant to section 17a-101k, as
 395 amended by this act. [for perpetrator information.] The commissioner
 396 shall notify each licensee of the provisions of this subsection.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	17a-101k
Sec. 2	December 1, 2005	17a-101g

Sec. 3	<i>October 1, 2005</i>	17a-28(c)
Sec. 4	<i>October 1, 2005</i>	17a-28(f)
Sec. 5	<i>October 1, 2005</i>	17a-6a
Sec. 6	<i>October 1, 2005</i>	17a-114(b)
Sec. 7	<i>October 1, 2005</i>	17b-749k(a)
Sec. 8	<i>October 1, 2005</i>	19a-77a(a)
Sec. 9	<i>October 1, 2005</i>	19a-80(c)
Sec. 10	<i>October 1, 2005</i>	19a-87b(b)

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Children & Families, Dept.	GF - None	None	None
Attorney General & Judicial Dept.	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

Sections 1 - 3 of the bill make various policy changes associated with the Department of Children and Families' (DCF) child abuse and neglect registry and associated due process procedures. It is anticipated that the agency can adopt the required regulations and implement the changes within its anticipated budgetary resources.

Provisions in the bill are not anticipated to materially alter the number of administrative appeals related to substantiated findings of abuse or neglect that progress to the Superior Court. The Office of the Attorney General, which represents the DCF in appeals proceedings, and the Judicial Department can accommodate any resulting caseload change without requiring additional appropriations.

Sections 4 - 7 make conforming changes that have no associated fiscal impact.

House "A" strikes the bill and eliminates a significant state cost (of at least \$2 million in FY 06 and \$2.3 million in FY 07) that would have resulted in response to implementation of an expanded notification and due process system for individuals having substantiated reports of child abuse or neglect, as set forth in the original bill.

Provisions in the amendment will also mitigate a potential increase

in caseload to the Office of the Attorney General and the Judicial Department associated with the original bill. It had been expected that each agency could have accommodated the workload increase within their respective anticipated budgetary resources.

OLR Bill Analysis

sHB 5057 (as amended by House "A")*

AN ACT CONCERNING THE DEPARTMENT OF CHILDREN AND FAMILIES AND CHILD ABUSE OR NEGLECT PROCEEDINGS**SUMMARY:**

This bill establishes notice, hearing, and appeals procedures for people the Department of Children and Families (DCF) finds reasonable cause to believe are responsible for neglecting or abusing a child. It prohibits the commissioner from placing the name of a suspected abuser on its registry unless she determines that he poses a risk to children.

The bill prohibits, in most cases, the agency from disclosing anything about the accused or the case until he has waived or completed all available procedures to overturn the finding. Current law requires the DCF commissioner to make disclosures to various state agencies and to place the individual's name on the registry as soon as she finds that the abuse or neglect charge has been substantiated.

The bill also permits people whose names were listed on its registry for charges substantiated before May 5, 2000, to appeal that action if they have not already done so.

It adds provisions requiring the agency to expunge certain case files when the abuse report was unsubstantiated.

The bill requires the commissioner to adopt implementing regulations by July 1, 2006.

*House Amendment "A" replaces the original file, modifying the bill's (1) administrative procedures, (2) notice requirements with respect to individuals placed on the registry before May 5, 2000, and (3) court appeal procedures. It also eliminates a provision in the original bill defining excusable abuse and neglect.

EFFECTIVE DATE: October 1, 2005, except the changes in procedures for placing names on the abuse registry are effective December 1, 2005.

RECOMMENDED FINDINGS OF ABUSE AND NEGLECT (§§ 1 & 2)

When DCF completes its investigation into a report of abuse or neglect and the commissioner determines she has reasonable cause to believe that abuse or neglect occurred, the bill requires her to also determine whether (1) an identifiable person is responsible and (2) if so, whether that person poses a risk to the health, safety, or well-being of children. Only those cases in which she makes both of these findings may result in the placement of the abuser's name on the registry.

Except in cases involving (1) death, (2) sexual abuse, (3) risk of serious physical or emotional abuse, (4) serious physical injury, (5) the arrest of the accused, or (6) termination of the abuser's parental rights, she cannot enter this recommended finding in the child abuse registry and cannot disclose any information regarding the recommended finding to any other state official, state agency, or any private person or entity until the accused has exhausted or waived all available administrative appeals.

Notice

The bill requires DCF to mail a notice of the recommended finding of abuse or neglect to the subject within five days of issuing it. The notice must include:

1. a short and plain description of the finding that the individual is responsible for the abuse or neglect of a child;
2. notice of the commissioner's intention to place the individual's name on its abuse and neglect registry unless the accused files an appeal;
3. a description of the potential adverse consequences of being listed on the registry, including its effect on obtaining or keeping a job that involves direct contact with children;
4. information about his rights to bring an administrative appeal; and

5. a form he can sign and return indicating whether he will invoke the administrative appeal procedures.

Internal Agency Review on Appeal

The commissioner or her designee must complete an internal review of any recommended finding within 30 days of receiving a notice of appeal. She must review all relevant information to determine whether the recommended finding is factually or legally deficient and should be reversed.

Before beginning the review, she must give the accused access to all documents relevant to the recommended finding. He or his representative may submit additional documentation and, at the commissioner's discretion, participate on a telephonic or face-to-face conference to gather more information.

The commissioner or her designee must issue a written reversal of any recommended finding that she determines is factually or legally deficient. She must send notice of the outcome of her review (i.e., either upholding or reversing the recommendation) to the accused by certified mail within five business days. If her decision is to uphold the finding, the notice must contain a brief statement of the allegations and the agency's statutory authority as well as information about the accused's right to request an administrative hearing.

Contested Case Hearings

Individuals wishing to challenge the results of the internal review must request a hearing within 30 days of being notified of the decision. DCF must schedule the hearing within 30 days of the request unless either party shows good cause for delaying it.

At the hearing, the accused may be represented by legal counsel. The commissioner has the burden of proving that the indicated finding is supported by a fair preponderance of the evidence submitted at the hearing.

Decisions

The hearing officer must issue a written decision within 30 days after the hearing concludes. It must contain findings of fact and conclusions of law on each issue raised at the hearing. The hearing officer can

either reverse or uphold the commissioner's indicated finding.

Court Appeals

Anyone aggrieved by the hearing officer's decision can file an administrative appeal in the Superior Court. The bill permits those appealing to seek a court order staying the agency's implementation of its decision.

DCF Disclosure of Information Relating to Abuse and Neglect Findings

Following the issuance of a court decision upholding DCF's abuse or neglect finding, the bill requires the DCF commissioner to disclose to the Public Health and Social Services commissioners, and any other state agency or official the law entitles to notice that the recommended finding of responsibility for the abuse or neglect has been upheld. She cannot disclose information other than that required under existing state statutes. She must also accurately reflect the information concerning the abuse and neglect finding in the agency's registry.

EXPUNGING UNSUBSTANTIATED CASE FILES (§ 1)

The bill requires DCF to seal records containing unsubstantiated abuse and neglect allegations, but it can permit access to agency employees who need this to properly discharge their job duties. It requires the commissioner to expunge unsubstantiated case files five years after DCF completed its investigation if no further reports involving him have been received. But if DCF receives more than one report involving the accused that it has been unable to substantiate, it must keep the records for five years from the date the most recent investigation is completed.

OTHER CONFIDENTIALITY REQUIREMENTS (§ 3)

By law, DCF may disclose limited information about ongoing investigations that it determines are likely to be reported by the media. Currently, it cannot disclose the names or other individually identifiable information about the victim or other family members. The bill extends the same confidentiality provisions to people suspected of having committed the abuse or neglect unless they have been arrested for this.

COMMITTEE ACTION

Select Committee on Children

Joint Favorable Change of Reference
Yea 12 Nay 0

Human Services Committee

Joint Favorable Change of Reference
Yea 16 Nay 0

Judiciary Committee

Joint Favorable Substitute
Yea 40 Nay 0